

The Honorable Christopher M. Alston
Chapter 7
Hearing Date: December 1, 2017
Hearing Time: 1:00 p.m.
Response Date: November 24, 2017
Hearing Location: Seattle, WA

IN THE UNITED STATES BANKRUPTCY COURT
IN AND FOR THE WESTERN DISTRICT OF WASHINGTON

In Re:

DEBRA LEA WILSON,

Debtor.

Case No. 13-20904

Adversary No. 14-01130

FIRST-CITIZENS BANK & TRUST
COMPANY, a North Carolina banking
association

Plaintiff,

PLAINTIFF'S NOTICE AND
MOTION FOR VOLUNTARY
DISMISSAL

vs.

DEBRA LEA WILSON,

Defendant.

NOTICE

TO: CLERK OF THE COURT
AND TO: DEBRA LEA WILSON, Defendant
AND TO: LARRY B. FEINSTEIN, Attorney for Defendant
AND TO: JAMES F. RIGBY, JR., Chapter 7 Trustee
AND TO: U.S. TRUSTEE'S OFFICE

YOU, AND EACH OF YOU, are hereby given notice that Plaintiff First-Citizens Bank & Trust Company has moved to voluntarily dismiss this denial of discharge lawsuit brought under 11 U.S.C. § 727 with prejudice and without attorney's fees and costs to any party. In exchange, the Defendant, Debtor Debra L. Wilson, has agreed to withdraw her motion for attorney's fees and cost bill that she recently filed in the Ninth Circuit Court of Appeals as part of an appeal that was filed in this adversary proceeding. The Debtor had requested \$14,206.65

PLAINTIFF'S NOTICE AND MOTION FOR
VOLUNTARY DISMISSAL - 1

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1 for attorney's fees and costs she incurred in the appeal to the Ninth Circuit in connection with
2 this case. The Debtor has also agreed to pay the sum of \$10,793.35 to Plaintiff by way of
3 monthly payments of \$500.00 per month secured by a confession of judgment and/or agreed
4 order. The aforesaid sums of \$14,206.65 and \$10,793.35 total \$25,000.
5

6 The hearing on Plaintiff's Motion for Voluntary Dismissal will be heard on December 1,
7 2017 at 1:00 p.m. in the United States Bankruptcy Court located at 700 Stewart Street, Seattle,
8 Washington 98101, Courtroom 7206, and the Clerk is requested to note the motion on the
9 motion calendar for that date.

10 IF YOU OPPOSE the Motion for Voluntary Dismissal, you must file your written
11 response with the Clerk of the Court, send two (2) copies to the judge's chambers and deliver a
12 copy to the undersigned NOT LATER THAN November 24, 2017. In the absence of an
13 objection, the Court will be requested to grant the relief as requested herein.
14

15 A complete copy of the Motion for Voluntary Dismissal may be obtained by written
16 request to Eisenhower Carlson PLLC and shall also be available with the office of the Clerk of
17 the United States Bankruptcy Court or can be obtained through Pacer at the Court's web site.
18

19 MOTION

20 COMES NOW the Plaintiff, First-Citizens Bank & Trust Company, by and through
21 its attorneys, Eisenhower Carlson PLLC and Alexander S. Kleinberg, to submit Plaintiff's
22 Motion for Voluntary Dismissal. This Motion is based on all records and pleadings on file
23 herein.

24 Plaintiff First-Citizens Bank & Trust Company has moved to voluntarily dismiss this
25 denial of discharge lawsuit brought under 11 U.S.C. § 727 with prejudice and without costs or
26 attorney's fees to any party. In exchange, the Defendant, Debtor Debra L. Wilson, has agreed to

PLAINTIFF'S NOTICE AND MOTION FOR
VOLUNTARY DISMISSAL - 2

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1 withdraw her motion for attorney's fees and cost bill that she recently filed in the Ninth Circuit
2 Court of Appeals as part of an appeal that was filed in this adversary proceeding. The Debtor
3 had requested \$14,206.65 for attorney's fees and costs she incurred in the appeal to the Ninth
4 Circuit in connection with this case. The Debtor has also agreed to pay the sum of \$10,793.35
5 to Plaintiff by way of monthly payments of \$500.00 per month secured by a confession of
6 judgment and/or agreed order. The aforesaid sums of \$14,206.65 plus \$10,793.35 total \$25,000.
7

8 Fed. R. Civ. P. 41 applies in adversary proceedings, and the bankruptcy court may
9 dismiss a complaint objecting to the debtor's discharge at the plaintiff's instance with notice to
10 the trustee and the United States trustee on order of the court containing terms and conditions
11 which the court deems proper. Fed. R. Bank. P. 7041. Here, the Plaintiff and the Defendant
12 have agreed this case should be dismissed pursuant to the foregoing terms and conditions that
13 they themselves believe are proper. Plaintiff respectfully asks the Court to order the dismissal
14 of this case pursuant to these terms.
15

16 DATED this 26th day of October, 2017.

17
18 EISENHOWER CARLSON PLLC

19 By: /s/ Alexander S. Kleinberg
20 Alexander S. Kleinberg, WSBA # 34449
21 Attorneys for Plaintiff First-Citizens Bank
& Trust Company
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